



European Materials Handling Federation

**Guidance on the application
of the Construction Products Regulation
(305/2011/EU)
to materials handling, lifting and
storage equipment**

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Foreword

Regulation 305/2011¹, the so-called Construction Products Regulation, lays down harmonised conditions for the marketing of construction products. It does so by establishing harmonised rules on how to express the performance of construction products in relation to their essential characteristics and on the use of CE marking on these products.

Several types of materials handling, lifting and storage equipment are associated with construction works (e.g. warehouses, distribution centres, airports...). This is the case for:

- Racking & shelving equipment
- Intralogistic systems
- Overhead travelling cranes
- Some elevating equipment (e.g. dock levellers)
- Some conveyors for bulk handling

The purpose of this document is to provide guidance on how to assess whether the Construction Products Regulation (CPR) applies to the various types of potentially relevant materials handling, lifting and storage equipment. The paper then provides such an assessment for each relevant category of equipment.

This publication is only for guidance and gives an overview of the assessment of the application of the Construction Products Regulation (305/2011/EU) to materials handling, lifting and storage equipment. It shall not be considered as a binding interpretation of the existing legal framework. It does not claim to cover all aspects of the matter, nor does it reflect all legal aspects in detail. It is not meant to, and cannot, replace knowledge of the relevant directives, laws and regulations. Furthermore the specific characteristics of the individual products and the various possible applications must be taken into account. This is why, apart from the assessments and procedures addressed in this guide, many other scenarios may apply. Manufacturers' instructions and manuals must always be respected.

STEP 1: is the equipment a construction product?

To fall within the scope of the CPR, the very first and basic requirement is that the equipment is considered as a construction product.

Article 2, paragraph 1 of the CPR defines a **construction product** as *“any product or kit which is produced or placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works”*.

The equipment must therefore fulfil all the conditions expressed in this definition to fall within the scope of the CPR. Let us analyse them one by one.

1- Product or kit

Materials handling equipment, regardless of its type, is a product.

2- Produced or placed on the market

The equipment can be either produced in the EU or imported from outside.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0005:0043:EN:PDF>

3- For incorporation in a permanent manner in construction works or parts thereof

Construction works are defined as buildings and civil engineering works. The definition is large enough to include all types of “construction works” in which relevant materials handling equipment is usually found, such as warehouses, factories, distribution centres and airports.

“Incorporated in a permanent manner”

The Regulation does not provide any definition of this concept. However, Interpretative Documents² published under the previous version of the legislation (Council Directive 89/106/EEC³) defined it as follows: “Incorporation of a product in a permanent manner in the works means:

- that its removal reduces the performance capabilities of the works ; and
- that the dismantling or the replacement of the product are operations which involve construction activities”.

In addition, the European Court of Justice used this interpretation in a judgement in 2010⁴.

Therefore, the key question is whether the dismantling of materials handling equipment reduces the performance of construction works and whether its dismantling or replacement requires a construction operation.

The dismantling of major materials handling equipment will neither affect performance of construction works, nor require a construction operation. Consequently, the vast majority of materials handling equipment does not fulfil this requirement.

4- The performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works

Basic requirements for construction works are listed under Annex I of the CPR. They include:

- Mechanical resistance and stability
- Safety in case of fire
- Hygiene, health and environment
- Safety and accessibility in use
- Protection against noise
- Energy economy and heat retention
- Sustainable use of natural resources

→ Does the equipment’s performance in these areas have an effect on the performance of the construction works?

↳ for this to be the case, the equipment must have a structural function in relation to the construction work so that its failure will affect these basic work requirements.

In the case of materials handling equipment, the performance test mostly comes down to a simple question: *does the construction rely for its existence/stability on the product in question?* If YES then the product is a construction product, if NO then it is not.

² Interpretative Documents (No 1 to No 6) published in Official Journal of the EU C 62 of 28.02.1994 (the concept of “incorporated in a permanent manner” is defined on pages 7, 26, 76, 108, 135 and 150)

³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31989L0106&from=EN>

⁴ European Court of Justice, Case C-185/08, paragraph 52: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62008CJ0185>

Once the analysis against the definition of “construction product” has been undertaken, there can be two possibilities:

- A. The equipment does not fulfil all 4 criteria described in step 1
↳ It is not covered by the CPR.

or...

- B. The equipment fulfils all 4 criteria described in step 1
↳ It is covered by the CPR.
However, to be required to be accompanied by a Declaration of Performance (DoP) and bear the CE mark, the equipment must also be covered by a harmonised standard or be subject to a dedicated European Technical Approval or a European Technical Assessment (ETA).

If the equipment is a construction product, the analysis moves to step 2.

STEP 2: is the equipment covered by a harmonised standard?

From the list of harmonised standards (hEN) for the Construction Product Regulation and its predecessor the Construction Products Directive⁵, a potentially relevant one for some types of materials handling equipment is **EN 1090-1 on steel and aluminium products**.

The standard applies to steel and aluminium structures, which include:

- structural steel and aluminium components
- kits
- steel components used in composite steel and concrete structures and
- structural cold-formed members and sheeting as defined in EN 1993-1-3 and EN 1994-1-4

The components described above can be made from different types of steel and aluminium constituent products, limited to the following:

- Hot rolled or cold formed
- Products made with other technologies
- Sections/profiles with various shapes
- Flat products (plates, sheet, strip)
- Bars
- Castings
- Forgings
- Unprotected
- Protected against corrosion by coatings or other surface treatments

Upon request from the European Commission, the responsible CEN Technical Committee (TC 135) produced a document clarifying which products are and are not covered by the standard. However, there is a lack of consensus, notably on products supposedly covered by the standard. Therefore, the European Commission decided to retain for the time being only those products not covered and on which there is a consensus.

The European Commission’s Frequently Asked Questions #31 on the CPR⁶ thus provides an indicative and non-exhaustive list of products not covered by the standard⁷ and in which “*structural components for the*

⁵ http://ec.europa.eu/enterprise/policies/european-standards/harmonised-standards/construction-products/index_en.htm

⁶ http://ec.europa.eu/enterprise/sectors/construction/faq/index_en.htm#Q2-15

⁷ <http://ec.europa.eu/DocsRoom/documents/5744/attachments/1/translations/en/renditions/native>

moving part of cranes" can notably be found. A consultation is still ongoing within TC 135 and the list could evolve.

Once the analysis on the application of a relevant harmonised standard has been undertaken, there can be two possibilities:

- A. It is established that the equipment is covered by EN 1090-1 or by another potentially relevant harmonised standard
↳ The equipment must then be CE-marked and a DoP must be drawn up.

or...

- B. It can be established that the equipment is not covered by EN 1090-1 or another potentially relevant harmonised standard
↳ It must be checked whether it is covered by a dedicated European Technical Approval or a European Technical Assessment.

STEP 3: is the equipment covered by a European Technical Approval or a European Technical Assessment?

A European technical Assessment (ETA) is produced by a technical Assessment Body on the basis of a European Assessment Document (EAD) adopted by the European Organisation for Technical Assessment (EOTA)⁸.

A European Assessment Document (EAD) is a document containing at least:

- A general description of the construction product
- The list of essential characteristics of the product
- The methods and criteria for assessing the performance of the product
- Principles for the applicable factory production control

According to the list available on the EOTA website, there is currently no European Assessment Document (EAD) and consequently no European technical Assessment (ETA) dedicated or relevant to any type of materials handling equipment.

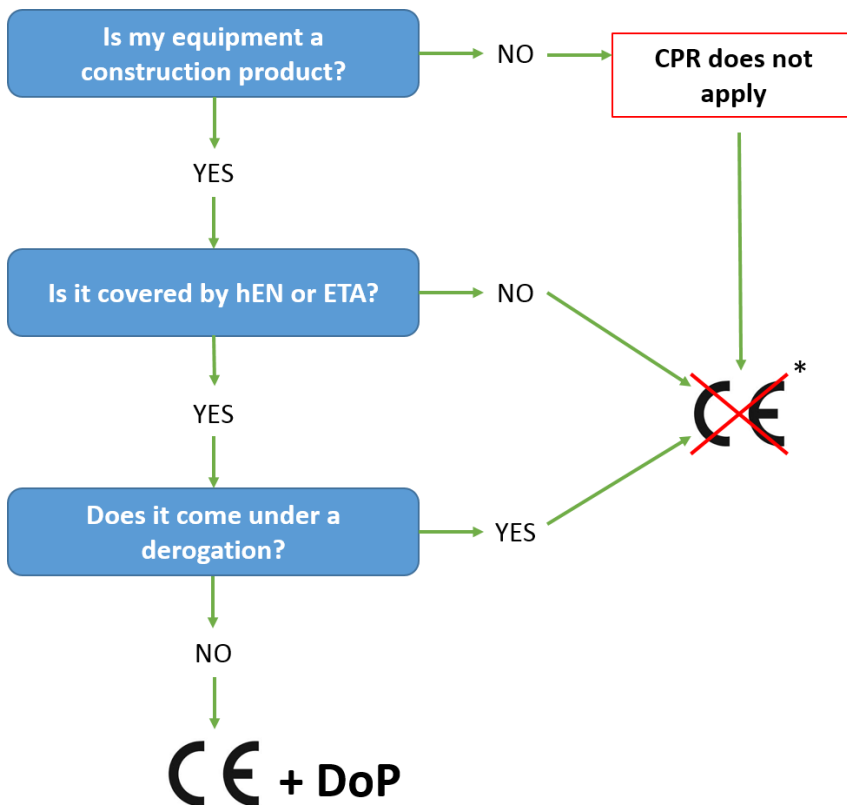
Derogations (CPR, Art 5)

If the equipment is a construction product and it is covered by either a harmonised standard or a European technical Assessment (ETA), a Declaration of Performance (DoP) is not necessary in some limited circumstances, namely:

- Products individually manufactured or custom-made, in a non-series process and in response to a specific order and installed in a single identified construction work by a manufacturer who is responsible for the safe incorporation of the product in the construction work;
- Products manufactured on the construction site where they are to be incorporated;
- Products manufactured in a traditional manner or in a manner appropriate to heritage conservation of protected works/buildings.

⁸ <http://www.eota.eu/en-GB/content/home/2/185/>

Wrap-up



* CE marking may still be necessary because of another piece of legislation (e.g. Machinery Directive)

Useful links & documents

European Commission, DG Growth page on the CPR

http://ec.europa.eu/growth/sectors/construction/product-regulation/index_en.htm

European Commission, DG Growth FAQ on the CPR

http://ec.europa.eu/growth/sectors/construction/product-regulation/faq/index_en.htm

European Commission, DG Growth page on the DoP and CE marking

http://ec.europa.eu/growth/sectors/construction/product-regulation/performance-declaration/index_en.htm

Orgalime Guide on the CPR

<http://www.orgalime.org/publication/practical-guide-understanding-specific-requirements-cpr>

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